

## Hon Michael Whitten KC



The Hon Michael Whitten KC practises in civil and commercial litigation. He is the former Lord Chief Justice of Tonga.

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### QUALIFICATIONS

Bachelor of Commerce  
Bachelor of Laws

### CORRESPONDENCE

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### CHAMBERS

Dawson Chambers  
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Melbourne VIC 3000

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### COMMERCIAL LAW

Appellate | Banking & Finance | Building & Construction | Class Actions | Commercial Arbitration |  
Consumer Law | Contractual Disputes | Energy & Resources | Insurance | Residential & Retail Tenancies

For more than 30 years, he has appeared in courts, tribunals and arbitrations throughout Australia and overseas.

Between September 2019 and August 2023, Michael served in country as the Lord Chief Justice of the Kingdom of Tonga and President of the Tongan Court of Appeal. During that term, he heard and determined over 1,300 cases across all areas of law with over 300 judgments published and/or cited on PACLII.

Prior to moving to Tonga, Michael specialised in all aspects of building and construction disputes including associated insurance actions. He is a co-editor of the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> editions of 'Brooking on Building Contracts'. Alternate dispute resolution remains an important part of Michael's practice. He is a Fellow of the Chartered Institute of Arbitrators and a nationally accredited mediator. He has served on the Victorian Bar's Alternate Dispute Resolution Committee and the Australian Bar Association's International Arbitration Committee.

Michael is a founding member of Melbourne TEC (Technology, Engineering and Construction) Chambers, a group of specialist construction law barristers, arbitrators and mediators who practise throughout Australia, Southeast Asia and the Middle East.

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## Recent Cases

### COMMERCIAL LAW

*WTE Co-Generation & Anor V RCR Energy Pty Ltd & Anor* [2013] VSC 314

*Birek Industries Pty Ltd v McKenzie Group Consulting (Vic) Pty Ltd* [2014] VSCA 165

*Austman Pty Ltd v Mount Gibson Mining Ltd* [2012] WASC 202- a contract formation case

*Thiess Degremont v CFMEU*, 2011/12 Supreme Court litigation

*Marshall v Berndt* [2011] VCC 384

*Wheelahan & Anor v City of Casey & Ors* [2011] VSC 215 - a contamination case and class action involving claims in excess of \$100 million

*Noonan v Owners Corporation No 2 PS 409115E and Anor* [2011] VCAT 1934- an owners corporation case

*SMEC Australia Pty Ltd & Anor v McConnell Dowell Constructors (Aust) Pty Ltd & Ors (No 2)* [2011] VSC 492 - South Australia desalination plant project

*Noonan v Owners Corporation No 2 PS 409115E and Anor* [2011] VCAT 1934, presently on appeal to the Supreme Court

*Solid Investments Australia Pty Ltd v Clifford & Anor* [2010] VSCA 59

*Structural Systems (Constructions) v Hansen Yuncken Pty Ltd* [2010] FCA 1358

*Kelleon Pty Ltd v Port of Portland Pty Ltd* [2010] VCAT 129- a retail tenancy case

*1144 Nepean Highway Pty Ltd v Leigh Mardon Australasia Pty Ltd* [2009] VSC 317 and on appeal - *1144 Nepean Highway Pty Ltd v Abnote Australasia Pty Ltd* [2009] VSCA 308

*Munnich, Darren & Byron 14 Pty Ltd v Corsello Byron Bay Pty Ltd & Levin Byron Bay Pty Ltd* [2009] VCC 556

*Salta Constructions Pty Ltd v Solid Investments Australia Pty Ltd & Anor* [2009] VCAT 464 - a multi million dollar complex in Geelong

*McInnes Developments Pty Ltd v Detering* [2009] VCAT 1185

*A J Lucas Drilling Pty Ltd v McConnell Dowell Constructors (Aust) Pty Ltd* [2008] VSC 275 - involving the undersea Minerva gas pipeline project off Port Campbell in Victoria and innovative horizontal directional drilling engineering issues, which went to the High Court on a special leave application - *AJ Lucas Drilling Pty Ltd v McConnell Dowell Constructors (Aust) Pty Ltd* [2010] HCATrans 230

*Collie Planning & Development Pty Ltd v. Premier Building & Consulting Pty Ltd* [2008] VSCA 146

*Premier Building & Consulting Pty Ltd v Spotless Group Limited & Ors (No 14)* [2008] VSC - a contamination case, which went on appeal to the court of appeal - *Collie Planning & Development Pty Ltd v Premier Building & Consulting Pty Ltd* [2008] VSCA 146

*Godfrey Spowers (Victoria) Pty Ltd v Lincolne Scott Australia Pty Ltd & Ors* [2008] VSC 90 - involving cutting edge commercial building 'green' technology

*Kane Constructions Pty Ltd v. Sopov (No. 2)* [2005] VSC 492

*Australian International Insurance Ltd v. Graham* [2005] VSC 183

*Rajan Constructions Pty Ltd v. Manningham Medical Centre Pty Ltd* [2002] VSC 579

*Rofin v Permasteelisa*, an arbitration in Hong Kong concerning in 2004 involving a 130,000-metre, 12,000-points of light, feature lighting system installed in the Cheung Kong Centre

*Age Old Builders Pty Ltd v Swintons Pty Ltd* [2001] VCAT 1967

## Memberships

Victorian Bar - Deputy Chair - International Arbitration Committee

Victorian Bar - Sustainability Committee

Building Dispute Practitioners Society

Australian Society of Construction Law